

TENNESSEE STATE BOARD OF EQUALIZATION
BEFORE THE ADMINISTRATIVE JUDGE

IN RE: Phillip Lytle d/b/a Precision Drafting Services)
 Personal Property Account #P-128527) Davidson County
 Tax Years 2005 and 2006)

INITIAL DECISION AND ORDER DISMISSING APPEAL
Statement of the Case

The Davidson County Assessor of Property, herein after called the "Assessor", has made the following back assessment /reassessment on the subject property:

Tax Year 2005

<u>Original Assessment</u>	<u>Revised Assessment</u>	<u>Back Assessment</u>
\$ -0-	\$72,836	\$72,836

Tax Year 2006

<u>Original Assessment</u>	<u>Revised Assessment</u>	<u>Back Assessment</u>
\$72,836	\$91,043	\$18,207

An Appeal has been filed on July 27, 2006¹, on behalf the property owner with the State Board of Equalization.

This matter was reviewed by the undersigned administrative law judge pursuant to Tennessee Code Annotated (T.C.A.) §§ 67-5-1412, 67-5-1501 and 67-5-1505. A jurisdictional hearing was conducted on November 14, 2006, at the Division of Property Assessments' Office. Present at the hearing were Phillip Lytle, the taxpayer who represented himself and Mr. Alan Morgan, Division of Personal Property Assessments for the Metro. Property Assessor.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Precision Drafting Services is located at 5935 S. New Hope Road, Suite/Unit 510 in Hermitage, Tennessee.

The initial issue is whether or not the State Board of Equalization has the jurisdiction to hear the taxpayer's appeal. The law in Tennessee generally requires a taxpayer to appeal an assessment to the County Board of Equalization prior to appealing the State Board of Equalization. T.C.A. §§ 67-5-1401 & 67-5-1412 (b). Once a taxpayer has appealed to the County Board, he has until August 1 of the tax year in question or forty-five (45) days from the date of the County Board notice, which ever is later, in which to appeal

¹ It is normally required that the taxpayer file an appeal form for each tax year since each year stands on its own relevance. However, in this case the 'normal' procedure was not followed.

to the State Board. A direct appeal to the State Board of Equalization is only permitted if the assessor does not timely notify the taxpayer of a change of assessment prior to the meeting of the County Board. T.C.A. §§ 67-5-508(b)(2); 67-5-1412 (e). Nevertheless, the legislature has also provided that:

The taxpayer shall have a right to a hearing and determination to show **reasonable cause** for the taxpayer's failure to file an appeal as provided in this section and, upon demonstrating such reasonable cause, the [state] board shall accept such appeal from the taxpayer up to March 1st of the year subsequent to the year in which the assessment is made (*emphasis added*).

In analyzing and reviewing T.C.A. § 67-5-1412 (e), the Assessment Appeals Commission, in interpreting this section, has held that:

The deadlines and requirements for appeal are clearly set out in the law, and owners of property are charged with knowledge of them. It was not the intent of 'reasonable cause' provisions to waive these requirements except where the failure to meet them is **due to illness or other circumstances beyond the taxpayer's control**. (*emphasis added*), *Associated Pipeline Contractors Inc.*, (Williamson County Tax Year 1992, Assessment Appeals Commission, Aug. 11, 1994). See also *John Orovetz*, (Cheatham County, Tax Year 1991, Assessment Appeals Commission, Dec. 3, 1993).

Thus for the State Board of Equalization to have jurisdiction in this appeal, the taxpayer must show that circumstances beyond his control prevented him from appealing to the Davidson County Board of Equalization and then to the State Board of Equalization within the time frames set out in the applicable statutes. It is the taxpayer's burden to prove that they are entitled to the requested relief.

In the present case since there is only one appeal form and each year stands on its own merits the filing "deadline" for tax year 2005 for Davidson County Board would have been September 31, 2005. Here the appeal is dated July 27, 2006, clearly outside of the allotted time for tax year 2005. The only explanation the taxpayer had when questioned by the county regarding receiving the Notice of Appraised Value, Classification and Assessed Value is that sometimes he had problems receiving his mail.² It is noted that the business address is different from the mailing address.

For tax year 2006 the Notice clearly states that:

If you have questions regarding the charges set forth above, (including classification, assess value, and/or adjustments made, if any) please contact the Assessor's Office at (615) 862-6073 without delay.

² It is noted that 2005 is the first year this company was in business. However, the address that the county uses to send the notice is the address that the taxpayer enters on the business records application with the County Clerk's Office.

In addition, if you disagree with the charges set forth above. .
. you may appeal to the Metropolitan Board of Equalization.

The Notice goes on to give the dates by which a request must be made, Mr. Lytle failed to contest the values, and as noted on the forms, the assessments became final.³

Mr. Lytle has not been able to explain why he failed to comply with the appropriate statutes regarding filing the required Schedules, or appealing to the County Board. Mr. Lytle kept stating that he is extremely busy.

After reviewing all the documentation and the taxpayers explanation there is, regrettably, not sufficient reasonable cause to maintain that incidents beyond the taxpayers control prevented him from filing with the County Board.

ORDER

The Administrative Judge believes that "reasonable cause" does not exist and the taxpayer has not sustained his burden and therefore the State Board of Equalization does not have jurisdiction to hear this Appeal.

Pursuant to the Uniform Administrative Procedures Act, T.C.A. §§ 4-5-301—325, T.C.A. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. T.C.A. § 67-5-1501(c) provides that an appeal "must be filed within thirty (30) days from the date the initial decision is sent." Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal "identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"; or
2. A party may petition for reconsideration of this decision and order pursuant to T.C.A. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to T.C.A. § 4-5-316 within seven (7) days of the entry of the order.

³ These are forced assessments because the taxpayer/business owner failed to comply with T.C.A. § 67-5-903 by filing the Schedule "B" form within the statutory time.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

Entered on this the 27th of February, 2007.



ANDREI ELLEN LEE
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Phillip Lytle
Jo Ann North, Assessor of Property